

NOV 29 2018

Clerk, U.S. Courts
District Of Montana
Missoula DivisionIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KERMIT TY POULSON,

Plaintiff,

vs.

SHALEESHA KARPYAK, aka "Song
Ferrari,"

Defendant.

CV 18-160-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendation on October 9, 2018, granting Plaintiff Kermit Ty Poulson's motion for leave to proceed in forma pauperis and recommending that the Court dismiss Poulson's complaint. (Doc. 9.) Poulson failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149-53 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been made." *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

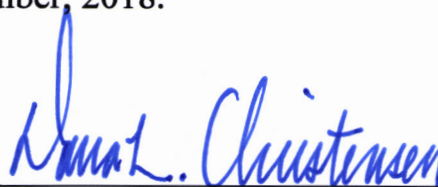
Having reviewed the Findings and Recommendation (Doc. 9), the Court finds no clear error in Judge Lynch's recommendation that this case be dismissed for lack of jurisdiction. Poulson alleges that his ex-wife, Shaleesha Karpyak, is responsible for the wrongful termination of his parental rights. Although he checked a box on the pro se form indicating diversity jurisdiction, Poulson lists his ex-wife's address as being in Montana and makes no other allegations regarding her citizenship. Judge Lynch did not clearly err by concluding that Poulson's complaint is insufficient to give rise to diversity jurisdiction under 28 U.S.C. § 1332. Nor does the complaint give rise to a determination that federal question exists; Poulson's claims against his ex-wife do not appear to arise "under the Constitution, Laws, or treaties of the United States." 28 U.S.C. § 1331.

Accordingly, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 9) are ADOPTED IN FULL;

(2) Poulson's complaint is DISMISSED without prejudice.

DATED this 29th day of November, 2018.



Dana L. Christensen, Chief Judge
United States District Court